

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KUSUM BATEY,

Plaintiff,

vs.

ASSET ACCEPTANCE, LLC, &  
SUTTELL & HAMMER, P.S.

Defendants.

NO.

COMPLAINT FOR VIOLATIONS OF 15  
U.S.C. § 1692 ET. SEQ. AND RCW  
CHAPTER 19.16

COMES NOW Kusum Batey, by and through counsel, who alleges:

**I. PARTIES**

1. Plaintiff Kusum Batey ("Batey") is a resident of Snohomish County, Washington State.

2. Defendant Asset Acceptance, LLC ("Asset Acceptance"), a debt collector and collection agency, doing business in Washington, attempted, and continues to attempt, to collect an alleged debt from the Plaintiff.

3. Defendant Suttell & Hammer, P.S. ("Suttell"), a law firm doing business in Washington, attempted and continues to attempt to collect an alleged debt from Plaintiff.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

**II. JURISDICTION**

4. Plaintiff alleges violations of the federal Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692 *et seq.* This Court has jurisdiction pursuant to 28 U.S.C. § 1331. Jurisdiction is proper in this Court because the FDCPA is a law of the United States and subject to “federal question” jurisdiction.

5. Additionally, Plaintiff alleges violations of the Revised Code of Washington. This Court has original jurisdiction over Plaintiff’s FDCPA claims, and Plaintiff’s federal and state claims arise from the same offensive conduct. This Court therefore has supplemental jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. § 1367(a).

**III. FACTS**

6. On January 9, 2013, Defendant Asset Acceptance, through Defendant Suttell on Suttell’s letterhead, mailed a letter to Plaintiff claiming that Plaintiff owed \$13,881.71 to Asset Acceptance. *See Exhibit 1.*

7. Plaintiff has never entered into any agreement, contract, or business relationship with Asset Acceptance.

8. In the January 9, 2013 letter, Defendants wrote the following:

If you notify this office in writing within 30 days after your receipt of this letter that the debt or any portion thereof is disputed, our offices will obtain verification of the debt and mail such verification to you. Upon your written request within 30 days, we will provide you the name and address of the original creditor if different from the current creditor. (emphasis added)

9. The letter further states “At this time, no attorney with this firm has personally reviewed the particular circumstances of your account,” and the letter is signed “Sincerely, Suttell & Hammer, P.S.”

1           10.     On January 31, 2013, Defendants again sent a letter, on Suttell's letterhead, to  
2 Plaintiff claiming "Current Balance due: \$13881.71." See **Exhibit 2**.

3           11.     The January 31, 2013 letter read, in part:

4           Our office is authorized to accept \$10411.28 as a full settlement of this account.  
5           This amount may be made in two payments. The first payment of \$5205.64 is  
6           due in our offices not later than 14 days from the date of this letter, the remaining  
7           balance of \$5205.64 is due 45 days from the date of this letter. If any payment is  
8           not timely made, the offer to settle is revoked and any payment made will be  
9           applied against the full balance. (emphasis added)

10          12.     The January 31, 2013 letter includes the word "debt" seven times and makes  
11          reference to "the way we are collecting your debt" and "the way we are collecting this debt."  
12          The letter further states "You are of course, welcome to make any proposal for repayment or  
13          settlement at anytime. [sic]"

14          13.     The letter is signed as follows:

15                   Yours very truly,

16                   SUTTELL & HAMMER, P.S.

17                   Legal Assistant \*\* Not an attorney

18          14.     Defendants Asset Acceptance and Suttell commenced a lawsuit against Plaintiff  
19          Batey in Snohomish county superior court on or about March 3, 2013, seeking \$13,881.71 in  
20          alleged damages.

21          15.     The Defendants' activities, as set out above, were conducted in a manner that was  
22          highly offensive to a reasonable person. As a result of the Defendants' behavior detailed above,  
23          Plaintiff suffered and continues to suffer embarrassment, mental anguish, emotional distress, and  
24          damaged credit.



**IV. CAUSES OF ACTION**

**GENERAL ALLEGATIONS APPLICABLE TO ALL COUNTS**

16. Plaintiff is a consumer as defined by 15 U.S.C. § 1692a(3) and Defendants Asset Acceptance and Suttell are debt collectors as defined by 15 U.S.C. § 1692a(6).

17. Plaintiff is a “debtor” as defined by RCW 19.16.100(11) and Defendants are collection agencies as defined by RCW 19.16.100(2).

18. Defendant Suttell holds a Washington State collection agency license.

19. Defendant Asset Acceptance does not hold a Washington State collection agency license.

**Count I**

20. Any collection activities and communication during the 30-day period (as outlined in 1692(g)(a)) may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor. 15 U.S.C. § 1692(g)(b).

21. Defendants violated 15 U.S.C. § 1692(g)(b) by sending a second letter on January 31, 2013, where the letter conveyed a sense of urgency and required a response within 14 days of the letter's creation, while the January 9, 2013 letter provided 30 days to dispute the alleged debt from the Plaintiff's receipt of the letter. The statements made in the second letter overshadow and are inconsistent with the Plaintiff's right to dispute the debt or request the name and address of the original creditor.

**Count II**

22. A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. 15 U.S.C. 1692e. The false representation

1 or implication that any individual is an attorney or that any communication is from an attorney is  
2 a violation of 15 U.S.C. 1692e(3).

3 23. Defendants create the false representation or implication that both letters are from  
4 an attorney in violation of 15 U.S.C. 1692e(3). As stated by the Seventh Circuit:

5 An unsophisticated consumer, getting a letter from an “attorney,” knows the price  
6 of poker has just gone up... A debt collection letter on an attorney’s letterhead  
7 conveys authority... Consumers are inclined to more quickly react to an  
8 attorney’s threat than to one coming from a debt collection agency... Thus, if a  
9 debt collector (attorney or otherwise) wants to take advantage of the special  
10 connotation of the word “attorney” in the minds of delinquent consumer debtors  
11 to better effect collection of the debt, the debt collector should at least ensure that  
12 an attorney has become professionally involved in the debtor’s file.

13 *Avila v. Rubin*, 84 F.3d 222, 229 (7th Cir. 1996); *see also Gonzalez v. Kay*, 577 F.3d 600  
14 (5th Cir. 2009); *Leshner v. Law Offices of Mitchell N. Kay, PC*, 650 F.3d 993 (3d Cir. 2011).

15 24. Although the January 9, 2013 letter contains the disclaimer “no attorney with this  
16 firm has personally reviewed” the account, the letter is on law firm letterhead and signed with  
17 the name of the law firm: “Sincerely, Suttell & Hammer, P.S.” Defendants are improperly  
18 attempting to reap the benefit of the force of a law firm and attorneys while attempting to  
19 sidestep the legal requirement of having an attorney review the account.

20 25. The January 31, 2013 letter contains no such disclaimer at all, except for the  
21 signature block which states “Legal Assistant \*\* Not an attorney.” The letter is on law firm  
22 letterhead and is signed “Yours very truly, SUTTELL & HAMMER, P.S.,” which is the name of  
23 the law firm.

### Count III

24 26. Plaintiff realleges the preceding paragraphs.

25 27. The use of a law firm letterhead and a law firm’s signature, without identifying  
26 any actual person and while repeatedly disclaiming any attorney involvement (while signing the

letter with the law firm's name) is a false, deceptive, or misleading representation in violation of 15 U.S.C. 1692e(10).

**Count IV**

28. A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. 15 U.S.C. 1692e. The false representation of the character, amount, or legal status of any debt is a violation of 15 U.S.C. 1692e(2)(A).

29. Plaintiff, upon information and belief, does not owe anyone \$13,881.71, and the representation that Plaintiff owes Asset Acceptance that amount is a violation of 15 U.S.C. 1692e(2)(A).

30. Defendants further misrepresented the character, amount, or legal status of the debt by representing that Asset Acceptance was assigned the debt.

**Count V**

31. A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt, including but not limited to, the collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law. 15 U.S.C. 1692f(1).

32. Defendants violated 15 U.S.C. 1692f(1) by attempting to collect an amount not expressly authorized by any agreement.

**Count VI**

33. Defendants violated 15 U.S.C. 1692f(1) by using a law firm letterhead and signatures despite a lack of any attorney involvement in the process. It is an unfair means to collect a debt because the least sophisticated consumer would believe that a law firm who uses



1 its letterhead and signature would involve the attention of at least one attorney, and that a letter  
2 from a law firm or attorney is much more frightening to the least sophisticated consumer than a  
3 letter from another entity.

#### 4 **Count VII**

5 34. Defendants violated 15 U.S.C.1692f(1) by sending a January 9, 2013 letter that  
6 provides 30 days from the date of Plaintiff's receipt of the letter to submit a dispute, but then  
7 subsequently sending a January 31, 2013 letter that demands action within 14 days from the date  
8 the letter was created. The overlapping time periods would cause the least sophisticated  
9 consumer confusion and uncertainty as to her legal rights, and constitute an unfair means to  
10 collect a debt.

#### 11 **Count VIII**

12 35. Defendants violated 15 U.S.C.1692e(10) by sending a January 9, 2013 letter that  
13 provides 30 days from the date of Plaintiff's receipt of the letter to submit a dispute, but then  
14 subsequently sending a January 31, 2013 letter that demands action within 14 days from the date  
15 the letter was created. The overlapping time periods would cause the least sophisticated  
16 consumer confusion and uncertainty as to her legal rights, and constitute a false or misleading  
17 representation.

#### 18 **Count IX**

19 36. An entity operating as a "collection agency" as defined in RCW 19.16.100 must  
20 obtain a license. RCW 19.16.110.

21 37. Asset Acceptance, LLC does not have such a license. Asset Acceptance, LLC is a  
22 distinct legal entity from Asset Acceptance Recovery Services, LLC, which does have a  
23

1 collection license. Both entities are registered businesses with the Washington secretary of state  
2 and have unique UBI numbers.

3 38. Asset Acceptance, LLC's actions in sending two letters and maintaining a lawsuit  
4 seeking to collect a debt constitute violations of RCW 19.16.110, RCW 19.16.250(7) and RCW  
5 19.16.260.

6 39. Violations of RCW 19.16.110 or RCW 19.16.250 are per se violations of the  
7 Consumer Protection Act, RCW chapter 19.86. *See* RCW 19.16.440. RCW 19.86.090 provides  
8 for treble damages (to a limit of \$25,000) and attorney's fees.

9 **Count X**

10 40. By sending letters and maintaining a lawsuit on Asset Acceptance, LLC's behalf,  
11 Defendant Suttell has violated RCW 19.16.250(1).

12 **Count XI**

13 41. In seeking to collect the improper amount of \$13,881.71, Defendants have  
14 violated RCW 19.16.250(8)(a), (8)(c), (9), (16), and (21).

15 **V. PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff prays:

17 42. For Judgment against Defendants for actual damages.

18 43. For statutory damages of \$1,000 per Defendant.

19 44. For treble damages, pursuant to RCW 19.86.090, calculated from the damages  
20 determined by the court.

21 45. For costs and reasonable attorney's fees as determined by the Court pursuant to  
22 15 U.S.C. 1692k(a)(3) and/or RCW 19.86.090.



**VI. JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury of all issues presented which are triable by a jury.

Respectfully submitted this 11th day of March, 2013

FREY BUCK, P.S.

By: /s/ Jason Anderson

Attorneys for Kusum Batey

WSBA #38014

1200 Fifth Avenue, Suite 1900

Seattle, WA 98101

(206) 486-8000

(206) 902-9660 (fax)

## SUTTELL & HAMMER, P.S.

PO BOX C-90006  
BELLEVUE, WA, 98009  
425-455-8220 TEL  
425-453-3239 FAX  
888-788-8355 TOLL FREE

January 9, 2013

KUSUM BATEY  
4625 SEAHURST AVE  
EVERETT WA 98203-1715

Re: ASSET ACCEPTANCE LLC  
KUSUM BATEY  
Reference Account #XXXXXXXXXX3547  
Charge Off Amount: \$13881.71  
Original Creditor: Household Finance  
Date of Last Payment: 01/08/2010  
Total Amount: \$13881.71

Dear KUSUM BATEY:

ASSET ACCEPTANCE LLC has referred the above account to our offices for collection.

If you fail to dispute the debt or any portion thereof within 30 days after your receipt of this letter we will assume the debt is valid.

If you notify this office in writing within 30 days after your receipt of this letter that the debt or any portion thereof is disputed, our offices will obtain verification of the debt and mail such verification to you. Upon your written request within 30 days, we will provide you the name and address of the original creditor if different from the current creditor.

Federal law prohibits certain methods of debt collection, and requires that we treat you fairly. You can stop us from contacting you by writing a letter to us that tells us to stop the contact or that you refuse to pay the debt. Sending such a letter does not make the debt go away if you owe it. Once we receive your letter, we may not contact you again, except to let you know that there won't be any more contact or that we intend to take a specific action.

If you have a complaint about the way we are collecting this debt, please write to us at PO Box C-90006, Bellevue, WA 98009, e-mail us at [info@suttelllaw.com](mailto:info@suttelllaw.com), or call us toll-free at (888) 788-8355 between 9:00 A.M. and 5 P.M. Pacific Standard Time, Monday - Friday.

The Federal Trade Commission enforces the Fair Debt Collection Practices Act (FDCPA). If you have a complaint about the way we are collecting your debt, please contact the FTC online at [www.ftc.gov](http://www.ftc.gov); by phone at 1-877-FTC-HELP; or by mail at 600 Pennsylvania Ave., N.W., Washington, D.C. 20580.

This communication is from a debt collector. We are attempting to collect a debt and any information obtained will be used for that purpose. At this time, no attorney with this firm has personally reviewed the particular circumstances of your account.

Please contact our offices if you have any issues and/or comments.

Sincerely,  
Suttell & Hammer, P.S.

## SUTTELL & HAMMER, P.S.

PO BOX C- 90006, BELLEVUE, WA 98009  
425-455 8220 TEL; 425-453-3239 FAX  
888-788-8355 TOLL FREE

January 31, 2013

Kusum Batey  
4625 Seahurst Ave  
Everett Wa 98203-1715

**RE: ASSET ACCEPTANCE LLC - KUSUM BATEY**  
**Current Balance due: \$13881.71**  
**File Number: 359979.001      Original Account Number: XXXXXXXXXXX3547**

Dear Kusum Batey:

Our office is authorized to accept \$10411.28 as a full settlement of this account. This amount may be made in two payments. The first payment of \$5205.64 is due in our offices not later than 14 days from the date of this letter, the remaining balance of \$5205.64 is due 45 days from the date of this letter. If any payment is not timely made, the offer to settle is revoked and any payment made will be applied against the full balance.

Alternatively, we are also authorized to accept monthly payments of \$578.40 on the full balance of this account with the first payment due 14 days from the date of this letter. You may be requested to execute a Stipulated Agreement to memorialize a repayment program.

If we do not receive your written confirmation as to which repayment program you want to proceed with within 14 days of the date of this letter, we have been instructed to proceed with further collection efforts. If not accepted, the offers in this letter will be automatically revoked on the 15th day following the date of this letter. You are of course, welcome to make any proposal for repayment or settlement at anytime.

Federal law prohibits certain methods of debt collection, and requires that we treat you fairly. You can stop us from contacting you by writing a letter to us that tells us to stop the contact or that you refuse to pay the debt. Sending such a letter does not make the debt go away if you owe it. Once we receive your letter, we may not contact you again, except to let you know that there won't be any more contact or that we intend to take a specific action.

If you have a complaint about the way we are collecting this debt, please write to us at PO Box C-90006, Bellevue, WA 98009, e-mail us at [info@suttelllaw.com](mailto:info@suttelllaw.com), or call us toll-free at (888) 788-8355 between 9:00 A.M. and 5 P.M. Pacific Standard Time, Monday - Friday.

The Federal Trade Commission enforces the Fair Debt Collection Practices Act (FDCPA). If you have a complaint about the way we are collecting your debt, please contact the FTC online at [www.ftc.gov](http://www.ftc.gov); by phone at 1-877-FTC-HELP; or by mail at 600 Pennsylvania Ave., N.W., Washington, D.C. 20580.

We are debt collectors. If you have any questions regarding your rights and responsibilities, we suggest you consult with your own independent counsel.

Yours very truly,

SUTTELL & HAMMER, P.S.

Legal Assistant \*\*Not an attorney

WE ARE DEBT COLLECTORS. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.